

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephanie Mleczkowski	Team: Team # 3	CCRB Case #: 201404667	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/13/2014 4:45 PM	Location of Incident: Staten Island Expressway	Precinct: 121	18 Mo. SOL 11/13/2015	EO SOL 11/13/2015	
Date/Time CV Reported Wed, 05/14/2014 9:13 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/14/2014 9:13 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Kaczor	11985	945216	HWY 05

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Eric Loria	14709	936984	HWY 05
2. SGT Wojciech Niebrzydowski	04799	927273	HWY 05
3. POM George Cachola	14481	901262	HWY 05
4. POM John Finley	02815	910633	HWY 05

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Kaczor	Abuse: PO Michael Kaczor stopped the motorcycle operated by § 87(2)(b)	
B.POM Michael Kaczor	Discourtesy: PO Michael Kaczor spoke rudely to § 87(2)(b)	
C.POM Michael Kaczor	Abuse: PO Michael Kaczor threatened § 87(2)(b) with the use of force.	
D.POM Michael Kaczor	Abuse: PO Michael Kaczor threatened to seize § 87(2)(b)'s property.	
E.POM Michael Kaczor	Abuse: PO Michael Kaczor threatened to arrest § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		

Case Summary

On May 14, 2014, § 87(2)(b) filed this complaint with the CCRB via telephone (encl. B1-B2).

On May 13, 2014, at approximately 4:45 p.m., § 87(2)(b) was riding his motorcycle on the Staten Island Expressway when he was stopped by an officer, identified via investigation as PO Michael Kaczor of Highway District Unit 5. The following allegations resulted:

- [illegible]

§ 87(2)(b) rejected mediation because § 87(2)(b)

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a Hispanic man who was § 87(2)(b) old at the time of the incident. He is 5'11" tall and weighs 255 pounds. § 87(2)(b) has black hair and brown eyes.
- § 87(2)(b)

CCRB Testimony:

§ 87(2)(b) provided a telephone statement to the CCRB on May 14, 2014 (encl. B1-B2) and a sworn statement on May 23, 2014 (encl. B3-B7), which were consistent and are summarized below:

On May 13, 2014, at approximately 4:45 p.m., § 87(2)(b) was returning from his place of employment, § 87(2)(b), and was riding his Harley Davidson purple motorcycle in the middle lane of the Staten Island Expressway, approximately one mile into

Staten Island from the Verrazano-Narrows Bridge. § 87(2)(b) did not drive in the High Occupancy Vehicle (“HOV”) lane at any point and was driving in heavy traffic at a speed of approximately five to ten miles per hour.

§ 87(2)(b) noticed three officers standing approximately 20-30 feet to the left of § 87(2)(b)'s motorcycle, near the HOV lane. § 87(2)(b) later read two of these officers' names from their nameplates as PO “Krovac” and PO “Lori,” who were eventually identified via investigation as PO Michael Kaczor and PO Eric Loria of Highway District Unit 5. However, the additional officer (“PO3”) remains unidentified. PO Kaczor is a white man who was top heavy, with a thin waistline, had light-colored and cropped hair, with dark eyes, was 5’10” tall, in his late thirties or early forties and uniformed. PO Loria is a white man, in his mid-forties, with dark brown hair, dark brown eyes, had no facial hair, was uniformed, 5’8”-5’9” tall, and had a slender or average build. PO3, whose name or shield number § 87(2)(b) did not obtain, is a white man, in his late forties or early fifties, 5’11” tall, with an average build and was uniformed. Two marked police vehicles were parked near the three officers, both vehicles marked “Highway Patrol 5.”

PO Kaczor had his hands clenched in fists, near his sides and walked up to § 87(2)(b)'s motorcycle. PO Kaczor placed each of his legs respectively on either side of § 87(2)(b)'s front motorcycle wheel and immediately told § 87(2)(b) “Give me your fucking license.” § 87(2)(b) responded that he needed to put his motorcycle in neutral. PO Kaczor then placed his hand on his gun and stated “You try to run and I will fucking kill you. Try to run, I will fucking kill you.” PO Loria and PO3 were approximately 30-40 feet away from § 87(2)(b) at this point.

§ 87(2)(b) turned his motorcycle off, put his hands up and said “Where am I going, I’m going nowhere. I was trying to put my bike in neutral and then I shut it off.” § 87(2)(b) then asked PO Kaczor “What do you need from me officer?” and PO Kaczor told him “Give me your fucking license,” which § 87(2)(b) immediately handed to him. PO Kaczor informed § 87(2)(b) that he had driven past his boss and § 87(2)(b) then noticed a silver Crown Victoria a few cars behind him. PO Kaczor stated that § 87(2)(b) was cutting drivers off and told § 87(2)(b) to pull over. § 87(2)(b) complied, pulling his motorcycle over to the left side of the road. § 87(2)(b) informed the undersigned investigator that he did not cut other vehicles off and when he did change lanes in the vicinity of the officers, he did so legally by first engaging his turning signal.

PO Kaczor approached § 87(2)(b)'s motorcycle and yelled at him “You think because you work you can pass me and disrespect me?” § 87(2)(b) responded that he respected PO Kaczor, however PO Kaczor stated “You don’t fucking respect me or fucking anyone.” PO Loria then walked over to § 87(2)(b)'s motorcycle and nodded towards it.

Next, PO Kaczor requested § 87(2)(b)'s registration and insurance, which § 87(2)(b) immediately furnished. PO Kaczor again repeated “You think because you work you can pass me and disrespect me?” and § 87(2)(b) asked PO Kaczor if he needed anything else from him. PO Kaczor then told § 87(2)(b) “If I ever see you here again I will impound your bike and lock you up. Don’t you ever let me fucking see you again.” PO Kaczor returned § 87(2)(b)'s vehicle documentation and § 87(2)(b) drove away from the incident location. § 87(2)(b) was not issued a summons as a result of this incident.

Photo Array:

On September 25, 2014, a photo array was conducted with § 87(2)(b) including photographs of PO Kaczor, PO Cachola, PO Loria and Sgt. Niebrzydowski. § 87(2)(b) indicated that PO Kaczor was the subject officer of this case and he did not recognize any additional officers included in the photo array (encl. B8-B11).

NYPD Statements:

Subject Officer: PO MICHAEL KACZOR

- *PO Kaczor is a white man who was § 87(2)(b) old at the time of the incident. He is 5'8" tall, weighs 240 pounds, with blond hair and blue eyes.*
- *PO Kaczor was assigned to Highway Patrol: Section 504-9, which encompasses the westbound portion of the Staten Island Expressway, more specifically the High Occupancy Vehicle lane, from 2:00 p.m. to 10:35 p.m. PO Kaczor did not have a partner.*

Memo Book

PO Kaczor did not document any memo book entries in regards to this incident (encl. C1-C3).

At 4:00 p.m., which is the closest memo book entry around the time of the incident, Sgt. Niebrzydowski inspected and signed off on PO Kaczor's memo book. At 7:00 p.m., PO Kaczor issued summonses to two separate individuals, one for operating in the HOV lane and on the shoulder of the road, while the other individual was summonsed for failing to be secured with a seatbelt.

CCRB Testimony

PO Kaczor was interviewed at the CCRB on June 13, 2014 and provided the following testimony (encl. C4-C6):

Despite being presented with a photograph of § 87(2)(b) and of his motorcycle, as well as with a synopsis of the incident, PO Kaczor did not recall this incident. PO Kaczor did not know if he stopped any men operating motorcycles on the date of the incident and he stated that he would not document such, unless he issued a summons to the motorist. PO Kaczor noted that Sgt. Niebrzydowski drives either a black, unmarked vehicle or a marked patrol vehicle; PO Kaczor has never seen Sgt. Niebrzydowski use a silver Crown Victoria.

Additional Officers Interviewed:

- The following officers were also interviewed by the CCRB on June 13, 16, August 13, and 20, 2014, respectively: PO Eric Loria (encl. D1-D5), Sgt. Wojciech Niebrzydowski (encl. E1-E4), PO George Cachola (encl. F1-F6) and PO John Finley (encl. G1-G4).

Their testimonies are summarized below:

- PO Loria is a Hispanic man who was § 87(2)(b) old at the time of the incident. He is 5'7" tall, weighs 180 pounds, with black hair and brown eyes. PO Loria was assigned to Highway Patrol, Section 501-3, from 2:00 p.m. to 10:35 p.m. He documented in his memo book entry, around the time of the incident, 5:05 p.m., that he issued a summons to a motorist within the High Occupancy Vehicle lane.
- Sgt. Niebrzydowski is a white man who was § 87(2)(b) old at the time of the incident. He is 5'8" tall, weighs 205 pounds, with brown hair and brown eyes. Sgt. Niebrzydowski was assigned as the Highway Patrol Supervisor, from 1:45 p.m. to 10:42 p.m. He documented in his memo book entry that while in the field, he inspected PO Loria's memo book at 3:50 p.m. and PO Kaczor's memo book at 4:00 p.m., both of whom were located at the High Occupancy Vehicle lane.

- PO Cachola is a Hispanic man who was § 87(2)(b) old at the time of the incident. He is 5'11" tall, weighs 200 pounds, with black hair and brown eyes. PO Cachola was assigned to Radar Enforcement and it is documented in his memo book that at 5:30 p.m., Sgt. Niebrzydowski inspected his memo book. PO Cachola was interviewed at the CCRB because his physical characteristics somewhat correspond to the description that § 87(2)(b) provided of a witness officer.
 - PO Finley is a white man who was § 87(2)(b) old at the time of the incident. He is 6'3" tall, weighs 295 pounds, with brown hair and green eyes. At 4:50 p.m., PO Finley issued three summonses to a commercial vehicle at the intersection of the Staten Island Expressway and Bradley Avenue. § 87(2)(g)
- § 87(2)(b)
- § 87(2)(b)
- Despite being presented with a summary of this incident, photographs of § 87(2)(b) and of his motorcycle, none of the aforementioned officers recalled this incident.

NYPD Documents

Highway Patrol 5 Roll Call

The aforementioned documentation notes that on May 13, 2014, during tour 3, PO Kaczor was assigned to Highway Patrol Section 504-9, PO Loria was assigned to Highway Patrol Section 501-3, Sgt. Niebrzydowski was assigned as the Highway Patrol Supervisor, PO Cachola was assigned to Radar Enforcement and PO Finley was assigned to Commercial Vehicle Enforcement (encl. H1-H4).

Warrant Check:

MISD (encl. K11) and the New York State Police (encl. J7) confirmed that there is no record for an officer that checked § 87(2)(b)'s name in their databases on the date of the incident.

Request for Highway 5 Video Recordings

On September 29, 2014, the undersigned investigator requested video footage and audio recordings from the time of the incident from PO Kaczor and PO Loria's vehicles. On December 18, 2014, the IAB-CCRB liaison confirmed that such records were nonexistent (encl. H6).

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of January 22, 2015, which is past the 90-day filing deadline (encl. J10-J13).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- § 87(2)(b)

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. A2).

Subject Officer CCRB History

- PO Kaczor has been a member of the service for seven years and there are no substantiated CCRB allegations against him (encl. A1). Case number 201304816 contains a discourtesy allegation, pled against PO Kaczor, which was unsubstantiated. During this case, the victim

alleged that upon PO Kaczor driving his motorcycle into the victim's vehicle, PO Kaczor stated to him "Your fucking asshole, you piece of shit. You trying to kill me?" and PO Kaczor subsequently stated "You don't give a shit." § 87(2)(g)

Conclusion

Identification of Subject Officer

A search of the CCRB's Complaint Tracking System's Officer Identification Tool and of the Highway District Unit 5 roll call indicated that PO Kaczor's name closely matched that given by § 87(2)(b) PO Krovac. There were no officers with a name similar to "Kaczor" working at the date and time of the incident. Additionally, PO Kaczor's pedigree information listed on his NYPD Single Officer Photograph closely corresponds to § 87(2)(b)'s description of the subject officer and as such, PO Kaczor is listed as the subject officer in this case.

Investigative Findings and Recommendations

Allegation A- Abuse of Authority: PO Michael Kaczor stopped the motorcycle operated by § 87(2)(b)

Allegation B- Discourtesy: PO Michael Kaczor spoke rudely to § 87(2)(b)

Allegation C- Abuse of Authority: PO Michael Kaczor threatened § 87(2)(b) with the use of force.

Allegation D- Abuse of Authority: PO Michael Kaczor threatened to seize § 87(2)(b)'s property.

Allegation E- Abuse of Authority: PO Michael Kaczor threatened to arrest § 87(2)(b)

§ 87(2)(b) alleged that PO Kaczor stopped his motorcycle. § 87(2)(b) additionally alleged that PO Kaczor told § 87(2)(b) "Give me your fucking license," "You try to run and I will fucking kill you," "You don't fucking respect me or fucking anyone" and "If I ever see you here again I will impound your bike and lock you up. Don't you ever let me fucking see you again." PO Kaczor, PO Loria, Sgt. Niebrzydowski, PO Cachola and PO Finley could not recall this interaction and there was no police paperwork documenting the interaction.

People v. De Bour, 40 N.Y.2d 210 (1976), established a four-tiered scale justifying police intrusions during street encounters. Level three involves a forcible stop and detention, which requires "a reasonable suspicion that a particular person has committed, is committing or is about to commit a felony or misdemeanor" (encl. 2A-2K).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(4-b) § 87(2)(g) [Redacted text block]

Team: _____

Investigator: _____

	Signature	Print	Date
Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date